

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

HEATHER A. MERRY,

Plaintiff,

vs.

AIA INSURANCE AGENCY, INC.,  
MICHAELE BROOKS, and KERRY  
ROBERTS,

Defendants.

2021 OCT 27 A 9:30

DEBRA P. HACKETT, CLK  
U.S. DISTRICT COURT  
MIDDLE DISTRICT ALA

CASE NO: 2:21-cv-719

**NOTICE OF REMOVAL OF CIVIL ACTION**

To the Honorable Judges of the United States District Court for the Middle District of Alabama, Northern Division:

COMES NOW, the Defendant AIA, Inc., improperly denominated as AIA Insurance Agency, Inc. in the complaint ("Defendant"), pursuant to 28 U.S.C. §1331 and 28 U.S.C. §1343, and hereby gives notice of the removal of the above-captioned civil action Heather A. Merry v. AIA Insurance Agency, Inc., Michael Brooks, and Kerry Roberts, Civil Action No: 03-CV-2021-901095 from the Circuit Court of Montgomery County, Alabama, where it is now pending, to the United States District Court for the Middle District of Alabama, Northern Division.

As grounds for this removal, Defendant shows unto the Court and alleges as follows:

1. Defendant AIA, Inc. is a corporation organized and existing under the laws of the state of Alabama with its principal place of business located in Montgomery County, Alabama;
2. Defendant Michael Brooks is an adult resident citizen of Elmore County, Alabama;

3. Defendant Kerry Roberts is an adult resident citizen of Montgomery County, Alabama;

4. Plaintiff Heather A. Merry is over the age of majority and a resident citizen of the State of Alabama. (Compl., ¶ 1.)

5. This action styled Heather A. Merry v. AIA Insurance Agency, Inc., Michael Brooks, and Kerry Roberts, Civil Action No: 03-CV-2021-901095, was filed in the Circuit Court of Montgomery County, Alabama.

6. This action is one over which this Court has original federal question jurisdiction pursuant to 28 U.S.C. §1331 and 28 U.S.C. §1343, and which may be removed by Defendant pursuant to 28 U.S.C. §1441(a) and 28 U.S.C. §1443. Therefore, Defendant AIA, Inc. removes this action pursuant to 28 U.S.C. §1441; 28 U.S.C. §1331; 28 U.S.C. §1343; 28 U.S.C. 1367(a); and 28 U.S.C. §1443.

7. Plaintiff filed a Complaint with federal law claims on October 7, 2021. In the Complaint, Plaintiff alleges that she was “retaliatorily discharged and wrongfully terminated due to a personal medical condition/disability” (Complaint, ¶ 10); that she “filed a Charge of Discrimination with EEOC” and received “EEOC’s Dismissal and Notice of Rights and right to sue” (Complaint ¶¶ 11, 12); that “AIA Insurance, Inc. retaliatorily terminated Heather Merry’s employment and wrongfully fired her for a medical condition discriminating and sexually harassing her for a condition . . .” (Complaint, ¶ 13); that “Defendant proceeded to terminate Mrs. Merry’s employment without good cause by creating a hostile environment” (Complaint, ¶ 21); and that “Defendant sexually harassed the Plaintiff about her STD and medical condition [sic] created such a hostile work environment that it has given rise to the Plaintiff bringing this cause of action .” (Complaint, ¶ 26). These claims sound in Title VII of the Civil Rights Act of

1964 and/or the Americans with Disabilities Act, if at all; Alabama law provides no similar cause of action which provides redress for these alleged actions.

8. This notice of removal is timely filed with this Court within the thirty (30) day limitations set forth in 28 U.S.C. §1446(b). This action became removable on September 6, 2016, which is the date Defendant City of Montgomery was served with the copy of Plaintiff's Complaint. This Court has supplemental jurisdiction over all pendent state law claims of the Plaintiff pursuant to 28 U.S.C. §1367(a).

9. This Notice of Removal is filed in Middle District of Alabama, Northern Division pursuant to 28 U.S.C. §1446(a) and 28 U.S.C. §1443 as the court for the United States for the district and division within which the action is pending. Venue is proper pursuant to 28 U.S.C. §1391(b); AIA, Inc. has its principal place of business in Montgomery County, Alabama, and all defendants reside in the state of Alabama; and Plaintiff's employment was located in Montgomery County, Alabama and, therefore, a substantial part of the events or omissions complained of occurred in Montgomery County, Alabama.

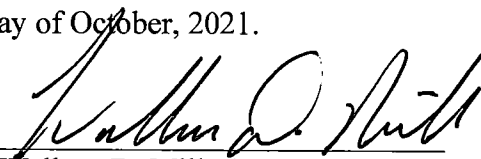
10. A copy of the Complaint served upon Defendant and court file of the Circuit Court of Montgomery County, Alabama, in said action is attached hereto as Exhibit "A" and made a part hereof in accordance with 28 U.S.C. §1446(a).

11. In accordance with 28 U.S.C. §1446(d), a true and correct copy of this notice of removal is being filed with the Clerk of the Circuit Court of Montgomery County, Alabama, and written notice thereof by service has been given to all adverse parties.

12. By filing this notice of removal, Defendant does not waive any defense that may be available to the Defendant.

**WHEREFORE**, Defendant files this notice of removal to affect the removal of this action from the Circuit Court of Montgomery County, Alabama, to this court. Defendant prays this Honorable Court will make such other orders as may be appropriate to affect the preparation and filing of a true record in this cause so that all proceedings that may have been had in said Circuit Court are removed to this Court. Defendant further prays that the removal of this cause to this court should be affected and that no further or other proceedings shall be had with respect to this cause in the Circuit Court of Montgomery County, Alabama.

Respectfully submitted this the 27<sup>th</sup> day of October, 2021.

  
Wallace D. Mills (MIL090)  
Attorney for AIA, Inc.

OF COUNSEL:  
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**CERTIFICATE OF SERVICE**

I hereby certify that I have mailed a copy of the above and foregoing to the attorney listed below by hand delivery or by placing a copy of same in the United States Mail, postage prepaid, this 27<sup>th</sup> day of October, 2021.

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